

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No. 5:21-CV-00379-D

Charles W. Mitchell, et al.,

Plaintiffs,

v.

Graincomm, II, LLC; Global Signal
Acquisitions LLC; Sprintcom, Inc.;
Cellco Partnership, d/b/a/ Verizon
Wireless;

Defendants.

**DEFENDANT GLOBAL SIGNAL
ACQUISITIONS LLC'S MOTION TO
ENFORCE SETTLEMENT AGREEMENT**

Defendant Global Signal Acquisitions LLC ("GSA"), by and through counsel, and pursuant to this Court's inherent power to summarily enforce settlement agreements made between the parties to this litigation, hereby moves the Court for an order enforcing the settlement agreement entered into by the remaining parties in this litigation: Plaintiff Charles W. Mitchell, Plaintiff Robert H. Mitchell, GSA, and Defendant Cellco Partnership d/b/a Verizon Wireless ("Verizon") (collectively, the "Parties").

The Parties negotiated and executed a binding Memorandum of Understanding ("MOU" or "Settlement Agreement") that, *inter alia*, resolves all pending claims; contains a global, broad-form release of all relevant claims; and requires dismissal of this action, the filing of an amended Utility Easement reflecting GSA's expanded easement rights, the filing of a withdrawal of the 2008 Affidavit referenced in the Amended Complaint, and payment to Plaintiffs Charles Mitchell and Robert Mitchell. Indeed, the MOU expressly states that the Parties "agreed to settle all claims" in this action (D.E. 93-1 at 1), and the Report of Mediator filed by former U.S. Magistrate Judge Carl Horn, III likewise confirms that "all claims were settled." (D.E. 88.)

GSA is filing this Motion because, rather than abide by the terms of the Parties' binding Settlement Agreement, Charles Mitchell has filed a "Motion for Reconsideration" seeking to evade the terms of the agreement, which he admittedly signed and negotiated. (D.E. 93.) Charles Mitchell has also attempted to challenge the MOU through a belatedly-filed memorandum. (D.E. 99.) Court intervention is therefore required to enforce the terms of the Settlement Agreement. In support of this Motion, GSA relies upon the pleadings in this matter, as well as the accompanying Memorandum in Support of its Motion to Enforce Settlement Agreement and exhibits thereto, which are submitted contemporaneously with this Motion and incorporated by reference.

Other than Charles Mitchell, all other Parties agree that this matter has been resolved and settled through the MOU. Plaintiff Robert H. Mitchell and Defendant Verizon have expressly consented to the relief sought in this Motion.

WHEREFORE, GSA respectfully requests that the Court grant this Motion to Enforce Settlement Agreement, deny Plaintiff Charles Mitchell's Motion for Reconsideration of the Settlement (D.E. 93), order that the Utility Easement submitted by GSA with this Motion may be filed in the public records (consistent with the Settlement Agreement's terms), and dismiss this action in its entirety with prejudice.

This is the 5th day of May, 2025.

[Signature on the following page]

WOMBLE BOND DICKINSON (US) LLP

By: /s/ Brian F. Castro

Brian F. Castro

N.C. State Bar No. 53412

555 Fayetteville Street, Suite 1100

Raleigh, NC 27601

Telephone: (919) 755-8135

Facsimile: (919) 755-6163

Email: Brian.Castro@wbd-us.com

James S. Derrick

N.C. State Bar No. 39632

One Wells Fargo Center, Suite 3500

301 S. College Street

Charlotte, NC 28202

Tel: (704) 331-4900

Fax: (704) 331-7819

Email: James.Derrick@wbd-us.com

*Attorneys for Defendant Global Signal
Acquisitions LLC*

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of May, 2025, the foregoing **DEFENDANT GLOBAL SIGNAL ACQUISITIONS LLC'S MOTION TO ENFORCE SETTLEMENT AGREEMENT** was filed with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing and serve counsel for all parties who have entered an appearance in this Court. In addition, the foregoing was served by United States mail to:

Ryan D. Oxendine (NCSB No. 27595)
6500 Creedmoor Rd., Suite 100
Raleigh, NC 27613
(919) 848-4333 Telephone
(919) 848-4707 Facsimile
Email: ryan@oxendinebarnes.com

Erik J. Tomberg (NC Bar # 56867)
150 Fayetteville St., Suite 300
Raleigh, NC 27601
Telephone: (919) 274-5664
Fax: (984) 268-2120
erik.tomberg@wilsonelser.com

Attorneys for Plaintiff Robert H. Mitchell

*Attorney for Cellco Partnership
d/b/a Verizon Wireless*

Chad E. Axford
Attorney for Plaintiffs
5171 Glenwood Ave., Ste. 206
Raleigh, NC 27612
Telephone: (919) 322-0815
N.C. Bar# 26059
chad@axfordlaw.com

Attorney for Plaintiff Charles Mitchell

By: /s/ Brian F. Castro

*Attorney for Defendant Global Signal
Acquisitions LLC*